

Purpose

To establish a procedure in compliance with State Regulations and to place the responsibility for taking corrective action and disciplinary action affecting a career service employee in the Department at the appropriate level.

Policy**CORRECTIVE ACTION**

When an employee's performance does not meet established standards for reasons other than willful misconduct, the Department shall take appropriate documented/clearly labeled corrective action.

WRITTEN WARNING

A Written Warning may be used to notify an employee of substandard performance, and as such may be considered as a corrective action tool. It also may be used to notify an employee of a proposed disciplinary action. Written Warnings will remain in the employee's personnel record for a minimum of five years unless otherwise noted on the warning (see Policy and Procedure 05-10).

DISCIPLINARY ACTION

Noncompliance with the rules, Department policies and procedures, professional and safety standards adopted by the Department, and such matters as willful misconduct; work performance that is inefficient or incompetent; failure to maintain skills and adequate performance levels; insubordination, disloyalty to the orders of a leader; misfeasance, malfeasance, nonfeasance, failure to advance the good of the public interest; or other inappropriate behavior shall be cause for disciplinary action, including any incident involving intimidation, physical harm or threats of physical harm against co-workers, management, or the public; no longer meets the requirements of the position. Disciplinary actions will remain in the employee's personnel file for a minimum of five years (see Policy and Procedure 05C-10).

The type and severity of any disciplinary action taken maybe governed by the following factors:

1. Consistent application of rules and standards
2. Prior knowledge of rules and standards
3. The severity of the infraction
4. The repeated nature of violations
5. Prior disciplinary/corrective actions
6. Previous oral warnings, written warnings and discussions
7. The employee's past work record
8. The effect on agency operations
9. The potential of the violations for causing damage to persons or property.

DOCUMENTATION

Disciplinary action must be supported by the possession of all possible facts. It is incumbent upon the leader to provide the documentation. Documentation should go beyond just indicating unsatisfactory performance of a person, but should also show that the leader has taken steps to warn, caution, and help the employee. Any letter of corrective or disciplinary action should include verification that the employee has seen the letter and is aware of its contents. Verification may be acquired through the signature of the employee on the letter, which does not necessarily mean that the employee agrees with its contents, but that the employee has knowledge of it. If an employee refuses to sign an acknowledgment of receiving corrective or disciplinary action it should be noted on the document and signed by the leader and a witness.

DISMISSAL DURING PROBATION

The probationary period shall be considered part of the selection process. At any time during a probationary period, an employee may be separated from employment without right of appeal or hearing. This probationary period is a period for an employee to make effective adjustments to his/her responsibilities and if he/she fails to perform properly, he/she shall be terminated.

DISMISSAL OR DEMOTION OF NON-CAREER SERVICE EMPLOYEES

The Executive Director may dismiss or demote an exempt non-career service employee without right of appeal by providing written notification to the employee to include the effective date.

Temporary/seasonal employees may be dismissed by their leader at any time with or without cause.

Background

This policy and procedure is in compliance with the Department of Human Resource Management Rules and good business practices.

Definitions

Working Day	As defined in this policy working days are all days except Saturdays, Sundays and recognized state holidays.
-------------	--

Procedures

Corrective Action and Disciplinary Action

UDOT 05C-31.1

CORRECTIVE ACTION

Responsibility: Leader

Actions

1. Determine when an employee's performance does not meet established standards.

Responsibility: Leader and Employee

2. Discuss the substandard performance in an attempt to discover the reasons thereof, and to set forth a written plan for an appropriate solution. This would be an appropriate time to utilize the employees' performance appraisal where performance standards and expectations are specifically articulated in the performance plan.

Responsibility: Leader

3. Develops a corrective action plan based on the discussion held with the employee. Appropriate corrective action must include one or more of the following:
 - a. Closer supervision
 - b. Training
 - c. Referral for personal counseling (this is only to be used after contacting the Department's Human Resource Director or designee.)
 - d. Reassignment (this is only to be used after contacting the Department's Human Resource Director or designee.)
 - e. Use of appropriate leave (contact the Employee Assistance Coordinator in the Department's Human Resource Office for help in this area.)
 - f. Career counseling and out placement (contact a Recruitment Team member in the Department's Human Resource Office for help in this area.)
 - g. Period of constant review
 - h. Opportunity for remediation
 - i. Written Warning
4. Shall discuss the corrective action plan with the employee and give the employee a copy of the plan.

Responsibility: Employee

5. The employee shall sign the written corrective action plan and/or written warning, to certify that he/she has reviewed it and has received a copy. If an employee refuses to sign an acknowledgment of receiving the corrective action plan and/or written warning, it should be noted on the document and signed by the leader and a witness. The employee shall have the right to submit written comment concerning the corrective action plan that would be placed in the employee's personnel file. A copy of the corrective action plan and/or written warning is to be sent to the Department's Human Resource Office to be placed in the employee's personnel file.
6. Please see 05C-40b concerning ADA issues.

Responsibility: Leader

7. During implementation of corrective action the leader shall provide the employee frequent evaluations concerning his/her progress. A record of corrective action evaluations given and any additional documentation is to be maintained by the leader.
8. If, after reasonable effort, the corrective action taken does not result in satisfactorily improved performance, the employee shall be disciplined.

DISCIPLINARY ACTION

All disciplinary actions of career service employees shall be governed by principles of due process. All disciplinary actions are subject to the grievance and appeal process by law.

WRITTEN REPRIMAND

The written reprimand is used by leaders to formally censure an employee by specifying in writing the reasons for the reprimand, noting previous oral warnings or discussions as appropriate, and informing the employee that corrective action is necessary to avoid further discipline. The written reprimand is the only form of disciplinary action that can be carried out at any level of management.

Responsibility: Leader

9. Notifies the career service employee in writing of the proposed written reprimand and the reasons thereof. This recommendation should include a concise statement of the charges against the employee, any attempted corrective actions or warnings, including written warning notices and/or written reprimands given the employee, and the necessary corrective action to avoid further discipline. Sends a copy of the proposed written reprimand to the second level leader (such as the Maintenance Area Supervisor) Region/Group Director or designee and the Department's Human Resource Office.

Responsibility: Employee

10. The proposed written reprimand shall be signed by the employee. This documents that the employee has seen the information not that he/she agrees with it. If an employee refuses to sign an acknowledgment of receiving the proposed reprimand, it should be noted on the document and signed by the leader and a witness.
11. The employee has five working days in which to reply in writing or request a hearing with the second level leader.

Responsibility: Leader at Second Level

12. Reviews the facts and determines if a written reprimand should be carried out.
13. If a written reprimand is to be given the leader making the recommendation is to be notified.

Responsibility: Leader

14. Prepares the written reprimand for employees' signature.

Responsibility: Employee

15. Signs the written reprimand, this documents that the employee has seen the information not that he/she agrees with it. If an employee refuses to sign an acknowledgment of receiving the reprimand, it should be noted on the document and signed by the leader and a witness.
16. Accepts the written reprimand and complies.

A written reprimand can be appealed to the Career Service Review Board within 20 working days after receipt of the written reprimand.

Responsibility: Leader

17. A copy of the signed written reprimand, is to be sent to the Region/Group Leader and the Department's Human Resource Office to be placed in the employee's personnel file.

SUSPENSION

An employee may be suspended without pay for up to thirty (30) calendar days per occurrence. Region/Group Leaders are authorized to suspend employees in their area after the employee has had an opportunity for a hearing or to respond in writing.

Responsibility: Leader

18. Recommends suspension of a career service employee. This recommendation should include a concise statement of the charges against the employee, any attempted corrective actions or warnings, including written warning notices and/or written reprimands given the employee, and the necessary corrective action to avoid further discipline.
19. Gives the written recommendation for suspension to the employee with a copy to the Region/Group Leader and the Department's Human Resource Office.

Responsibility: Employee

20. The recommendation for suspension shall be signed by the employee. This documents that the employee has seen the information not that he/she agrees with it. If an employee refuses to sign an acknowledgment of receiving the recommendation, it should be noted on the document and signed by the leader and a witness.
21. The employee has five working days in which to reply in writing or request a hearing before the suspension is issued.

Responsibility: Region/Group Leader

22. Sets a hearing date, if not already set, after receiving notification that the employee desires to be heard.
23. Following a hearing or after review of any written reply to charges, a decision is made as to whether the employee should be suspended and the length of suspension.
24. Consults with the Department's Human Resource Office and prepares a letter to the employee with the decision.

Responsibility: Employee

25. The suspension notification, if carried out, shall be signed by the employee. This documents that the employee has seen the information not that he/she agrees with it. If an employee refuses to sign an acknowledgment of receiving the suspension notification, it should be noted on the document and signed by the leader and a witness.

26. Accepts suspension and complies or appeals to the Career Service Review Board within 20 working days.

The suspension will be invoked at the discretion of the Region/Group Leader. The actual suspension usually takes place before an appeal to the Career Service Review Board is heard.

Responsibility: Region/Group Leader or designee

27. Sends a signed copy of suspension notification to the Department's Human Resource Office for inclusion in the personnel file.

DEMOTIONS OR DISMISSAL

Responsibility: Leader

28. Recommends demotion or dismissal of a career service employee. This recommendation should include a concise statement of the charges against the employee, any attempted corrective actions or warnings, including written warning notices and/or written reprimands given the employee, and the necessary corrective action to avoid further discipline.
29. Gives the written recommendation for demotion or dismissal to the employee with a copy to the Region/Group Leader and the Department's Human Resource Office.

Responsibility: Employee

30. The recommendation for demotion or dismissal shall be signed by the employee. This documents that the employee has seen the information not that he/she agrees with it. If an employee refuses to sign an acknowledgment of receiving the recommendation, it should be noted on the document and signed by the leader and a witness.
31. The employee has five working days in which to reply in writing or request a hearing before the demotion or dismissal is issued.

Responsibility: Region/Group Leader

32. Acting in behalf of the Executive Director sets a hearing date, if not already set, after receiving notification that the employee desires to be heard.
33. Following a hearing or after review of any written reply to charges, a recommendation is made as to whether the employee should be disciplined and the type of discipline.

34. Consults with the Department's Human Resource Office and prepares recommendation concerning the discipline and a letter to the employee for the Executive Director's signature if demotion or dismissal is recommended.

Responsibility: Executive Director

35. Reviews the recommendations, and, if in agreement, signs the letter. Sends formal letter notifying the employee of the findings and the action to be taken. If disciplinary action is imposed, the employee shall be notified of the reasons for the discipline, the effective date, the length of the discipline, and the standard of conduct necessary to avoid further discipline. Sends a copy of the notice of demotion or dismissal to the Department's Human Resource Office for inclusion in the personnel file.

Responsibility: Employee

36. Signs the necessary documentation that he/she has received notification of disciplinary action.
37. Accepts action and complies, or appeals to the Career Service Review Board within 20 working days.

The actual disciplinary action takes place before an appeal to the Career Service Review Board can be heard.

AGGRAVATED CASES

When the conduct of an employee is such that it would endanger the peace or safety of others, pose a grave threat to the public interest, or he/she is charged with aggravated or repetitive misconduct, or for other reasons as determined by Department management, the employee may be given Administrative Leave With Pay or be temporarily reassigned to another work location pending an investigation to determine the facts upon which disciplinary action may be taken.

Responsibility: Region/Group Leader

38. Provides Administrative Leave With Pay when the above conditions exist. The Department's Human Resource Office should be consulted prior to or immediately following initiation of administrative leave.